IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Chamber Summons No. 128 of 2005
In
Writ Petition No. 482 of 2005

Bombay Environmental Action Group & Anr. .. Petitioners
V/s.
The State of Maharashtra & Ors. .. Respondents

Mr. Iqbal Chagla, Senior Counsel with Mr. P.A. Kabadi i/b. M/s. Doijode Phatarphekar & Associates for the Petitioners
Mr. Ravi Kadam, Advocate General with Mr. R.M. Sawant, G.P. for the Respondent No. 1
Mr. K.K. Singhvi, Senior Counsel for the Respondent No. 2.
Ms. Meena Doshi for the Respondent No. 3 and 4.
Mr. B.A. Desai, Additional Solicitor General with Mr. Rajiv Chavan for the Respondent-Union of India.
Mr. Janak Dwarkadas, Senior Counsel with Ms. Hutoxi Tavadia i/b. Mahesh Thorat for Respondent No. 6
Mr. F.E. Devitre, Senior counsel i/b. Federal Rashmikant & Co. for the Respondent No. 7 to 12.
Mr. E.P. Bharucha, Senior counsel with Ms. Z.
Mr. D.V. Tulzapurkar, Senior counsel with Mr. Anil Menon for the Respondent No. 13
Mr. Beharamkamdin i/b. Humranwala & Co. for the Respondent No. 14
Ms. Gayatri Singh for the Respondent No. 16
Mr. Jamshed Mistry i/b. M/s. Thakore Zariwalla & Co. for the Respondent Nos. 17 and 18.

CORAM : S. RADHAKRISHNAN &
J.H. BHATIA, JJ.
DATED : 07.07.2005.

P.C.:-

1. Heard the learned Senior Counsel Mr. Chagla for the Petitioners, the learned Senior Counsel Mr. Devitre, Mr. Singhvi, the learned Senior Counsel and the learned Additional Solicitor General Mr. Desai and other counsel for respective Respondents.

2. By this Chamber Summons, the Petitioner is basically seeking to amend the Petition by raising

certain points of law especially clarification dated

28th March, 2003 as well as the necessity of environmental clearance as per notification dated 27.1.1994, and as amended by notification dated 7th July, 2004.

3. The learned counsel for the Petitioners brought to our notice that with regard to the clarification dated 28th March, 2003, basic facts are set out in the Petition. Even before this Court when the matter was argued on 20th April, 2005,the issue of environmental clearance notification dated 27.1.1994 and as amended by Notification dated 7th July, 2004 was also raised.

4. It may be noted here that the Petition is yet to be admitted and yet to be heard. We have also perused the judgment of the Supreme Court in **Padma v. Hiralal Motilal and others (2002) 7 SCC 564,** specially the observations of the Supreme Court in paragraph 11 of the said judgment. Mr. Chagla, the learned Senior Counsel contended that the above amendments are very essential and necessary to resolve the issues raised in the Petition, hence prayed that the same be allowed.

5. The learned counsel appearing for the Respondents sought to contend that the issue with regard to environmental clearance notification dated 27.1.1994 is academic today in the sense that it may arise at a later stage. The learned counsel for the Respondents

also stated that the clarification dated 28.3.2003 ought to have been challenged at the beginning when the Petition was filed and not at this stage.

6. We are fully satisfied that the amendments sought are necessary and essential in the above Petition especially when the above Petition is a PIL Petition, which is yet to be admitted. The Respondents will have full opportunity to deal with these amendments by filing an additional affidavit-in-reply. Under these circumstances, Chamber Summons is made absolute in terms of prayer clause (a). Amendment to be carried out on or before 16.7.2005. The learned Senior counsel for the Petitioners, Shri Chagla states that today itself, a copy of the Petition alongwith the Draft amendment will be furnished to Advocates of Union of India. The Respondents are all at liberty to file additional affidavits in reply with regard to the amendments granted, on or before 23.7.2005.

(S. RADHAKRISHNAN, J.)

(J.H. BHATIA, J.)